

REMARKS / ARGUMENTS

Claims 1-12 remain pending in this application.

Information Disclosure Statement

The PTO-1449 Form filed on February 23, 2005 has not been acknowledged by the Examiner in the Office Action of April 5, 2006. Accordingly, Applicant requests the Examiner initial and return a copy of the enclosed PTO-1449 Form to indicate that these documents have been considered. A copy of the date-stamped, mailroom receipt is enclosed to indicate proof of receipt by the PTO.

35 U.S.C. §103

Claims 1-5, 8, 10-11 and 13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Nebeker (U.S. Patent No. 5,566,395) in view of Ogden (U.S. Patent No. 5,727,336). Claims 6, 9, 11-12 and 14-16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Nebeker in view of Bryant et al (U.S. Patent No. 5,366,801). Claims 17 and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Nebeker in view of Sessa (U.S. Patent No. 5,400,526). These rejections are traversed as follows.

The Examiner's attempt at combination of references fails to disclose a shoe or boot having the recited layers, in particular, the thermal, nonwoven composite. The claims have been modified to clarify this feature in combination with the other

limitations of the claims. The thermal nonwoven composite is formed by having an open cell foam inserted inside the internal structure of a nonwoven.

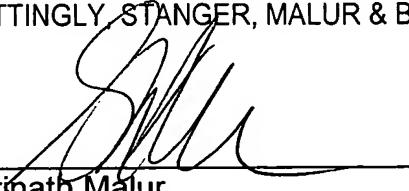
The Examiner states that the spacing layers of Nebeker are interpreted as the claimed "thermal insulating layer", citing column 2, lines 6-26. However, this portion of Nebeker clearly states that the spacing layers are selectively attachable to one another in stacking fashion in the thickness direction to alter the thickness of the liner. Therefore, the spacing layers cannot be said to correspond to the claimed thermal insulating layers. The deficiencies in Nebeker are not overcome by resort to Ogden, Bryant et al or Sessa. As such, it is submitted that the pending claims patentably define the present invention over the cited art as none disclosed the claimed combination including a thermal nonwoven. Furthermore, none of the references disclose the thermal insulating layer as in claim 1.

Conclusion

In view of the foregoing, Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.

By 
Shrinath Malur
Reg. No. 34,663
(703) 684-1120